

**REPORT - PLANNING COMMISSION MEETING**  
**June 10, 2004**

**Project Name and Number:** Carl's Junior Conditional Use Amendment (PLN2004-00222)

**Applicant:** Woody DeMayo

**Proposal:** To consider an amendment to Conditional Use Permit U-83-14 to allow the replacement of an outside play structure.

**Recommended Action:** Approve based on Findings and Subject to Conditions

**Location:** 37000 Fremont Boulevard, at the southeast corner of Fremont Boulevard and Thornton Avenue, in the Centerville Planning area.

**Assessor Parcel Number(s):** 501 142603400

**Area:** 1.01 acre

**Owner:** B P Investments & Marjorie Plummer Trust

**Agent of Applicant:** Woody DeMayo

**Consultant(s):** None

**Environmental Review:** This project is categorically exempt from review under CEQA pursuant to Section 15302 (b) (Replacement of a commercial structure with a structure of substantially the same size, purpose and capacity).

**Existing General Plan:** Community Commercial

**Existing Zoning:** C-C (CSPC) Community Commercial with a Centerville Specific Plan Overlay

**Existing Land Use:** The site is currently being used as a fast food restaurant with a drive through window and an outside play area.

**Public Hearing Notice:** A total of 33 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Thornton Avenue and Fremont Boulevard. The notices to owners and occupants were mailed on May 28, 2004. A Public Hearing Notice was delivered to The Argus on May 24, 2004, to be published by May 27, 2004.

**Executive Summary:** The applicant requests approval of a conditional use permit amendment to allow for the replacement of an existing outside play structure with a new one that is 720 square feet in area and 15 feet and five inches in height. The current play area would not be enlarged, the only modification would be the structure within that play area. In addition to the play structure, the applicant is proposing to include an outside seating area within that existing play area enclosure. According to the site plan, the outside seating area will accommodate 52 patrons. The design of the structure will allow for some of the seats to be located on the perimeter of the play area and some of the seats to be located under the play structure.

**Background and Previous Actions:** In July of 1983, Conditional Use Permit U-83-14 was approved by the Planning Commission. The conditional use permit allowed the fast food restaurant to locate on the site along with its drive-thru window and related parking. The restaurant maintains seating and a small play structure outside. There are no records to show when those were approved, however, the small structure would not have required a building permit, nor a use

permit amendment. Because of the size and height of the proposed replacement play structure and the placement of the play structure over the outside patron seating area, this proposal is subject to a Conditional Use Permit Amendment and a building permit.

**Project Description:** The applicant is proposing an amendment to Conditional Use Permit U-83-14 to replace the existing outside play structure with a larger play structure that is 15 feet 5 inches in height and occupies 720 square feet of ground area. The structure will accommodate three child-sized levels and will be designed to provide a cover for some of the outside patron seating.

## **PROJECT ANALYSIS:**

**General Plan Conformance:** The existing General Plan land use designation for the project site is Community Commercial. The proposed project is consistent with the existing General Plan land use designation for the project site because this structure is accessory to a use that is allowed in that General Plan designation.

**Redevelopment Plan Conformance:** Due to its proximity to the Unified Site, Planning and Redevelopment staff decided to meet to discuss the accessory use and play structural design. Redevelopment staff felt the design was adequate and that the proposal would not hinder the goals of the City for the Centerville area.

**Zoning Regulations:** This accessory structure complies with zoning regulations for the C-C district.

**Parking:** The parking for the restaurant is maintained and adequate. The restaurant has 79 internal seats and a proposal for 52 external play area seats. The City does not require parking for outside seating. However, the total parking required for the restaurant is 25. The site currently has 45 parking stalls including accessible stalls.

**Open Space/Landscaping:** The proposal is to replace an existing play structure within the boundaries of the existing play area. There were no plans to change the current landscaping. However, it was staff's opinion that the London Plane Trees on site were pruned incorrectly and they could fail to thrive. Staff suggested removing them and replacing them with appropriate trees or hiring an arborist to evaluate the trees' condition. The applicant chose to do the latter. The evaluation was that the trees were pruned incorrectly, but that with some restructuring they may eventually thrive. Per Condition 4 in Exhibit "B", the applicant has two options: (1) Retain the existing trees and submit a program to the city during DO for restructuring the trees or (2) Replace the trees with new 24" Box Trees.

**Waste Management:** This project is subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939), the City's Source Reduction and Recycling Element (1992), the Integrated Waste Management Ordinance (1995), and the Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. The main use of the site is existing and ongoing. Trash collection and loading has already been evaluated and the rules at the time of the original approval were applied. When the applicant demolishes the existing structure, the applicant will be required to recycle the materials where appropriate. The applicant will also be encouraged to purchase items for the new structure that are constructed from recycled materials.

## **DESIGN ANALYSIS:**

**Architecture:** The play structure is proposed to be three child-sized levels for a total of 15 feet 5 inches high, 20 feet wide and 36 feet long (a base total of 720 square feet). There is a slide that spans all three levels on the eastern side of the structure. The western side of the structure has a rocket feature. This is the elevation one will see traveling along Fremont Boulevard or Thornton Avenue. The color scheme is not much different than what exists on the building. However, the building has more off white to neutralize the brightness of the color palette of red, purple and gray. The structure will look bright and catch the eye of those traveling along Fremont Blvd. or Thornton Ave., but it will coordinate with the colors on the existing building.

**Urban Runoff Clean Water Program:** The applicant will be required to conform to the City's Urban Runoff Clean Water Program requirements. Conditions of approval are included in Exhibit "B" (the project's Findings and Conditions) to reflect this requirement.

**Environmental Review:** This project is categorically exempt from review under CEQA pursuant to Section 15302 (b) (Replacement of a commercial structure with a structure of substantially the same size, purpose and capacity).

**Response from Agencies and Organizations:** There were no comments received.

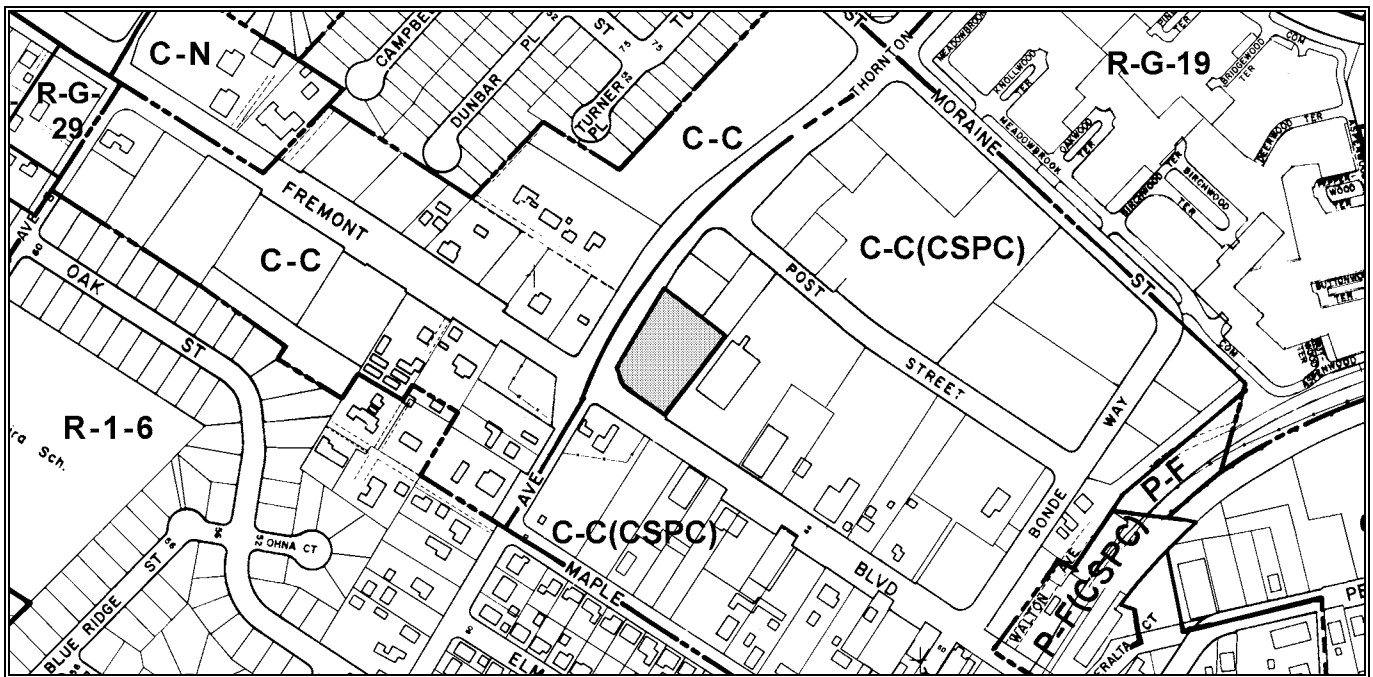
**ENCLOSURES:** Exhibit "A" (Site Plan and Elevations)  
Exhibit "B" (Findings and Conditions)

**EXHIBITS:** Exhibit "A" Site Plan and Elevations  
Exhibit "B" Findings and Conditions  
Exhibit "C" Material and Color Board

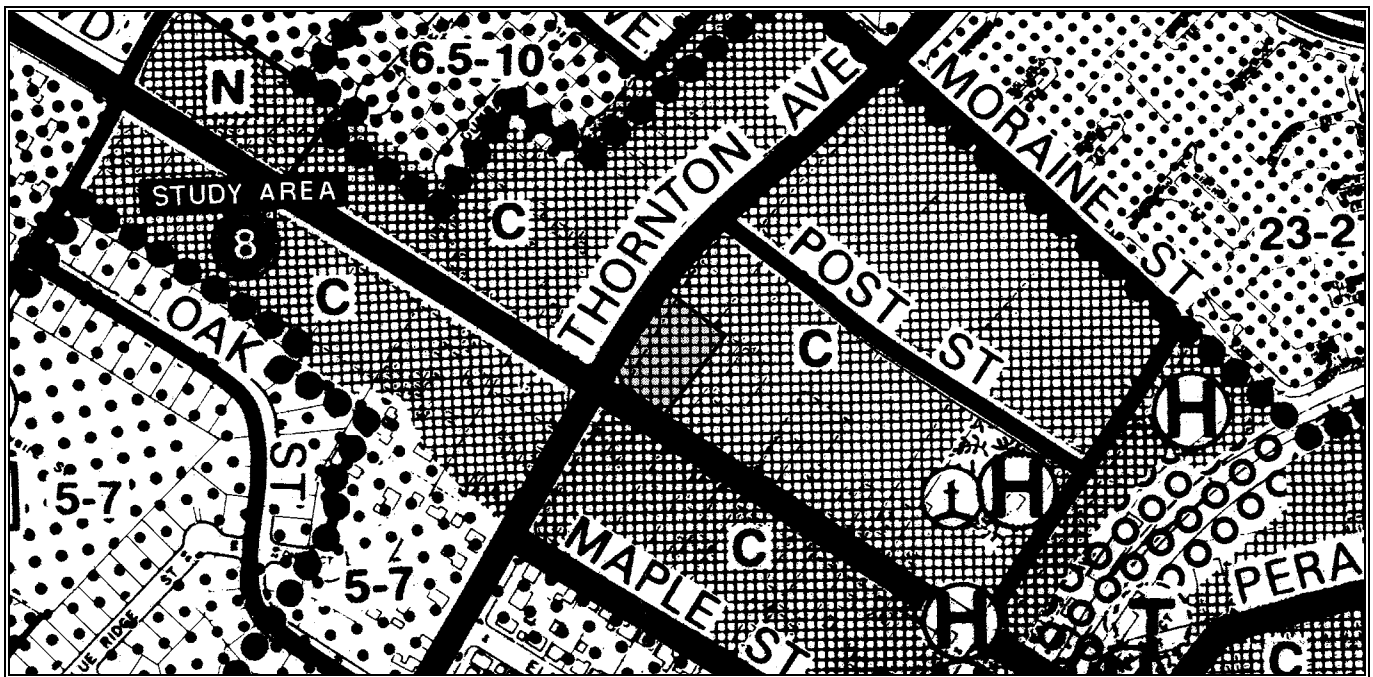
**Recommended Actions:**

1. Hold public hearing.
2. Find that no CEQA analysis is needed because the project is exempt pursuant to Section 15302 (b) (Replacement of a commercial structure with a structure of substantially the same size, purpose and capacity).
3. Find that the proposed project is in conformance with the relevant provisions contained in the City's General Plan. The project conforms to the goals and policies as enumerated in the staff report and Findings Exhibit adopted/recommended herewith.
4. Approve PLN2004-00222, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

Existing Zoning  
Shaded Area represents the Project Site



Existing General Plan



## **Exhibit "B"**

### **Finding and Conditions of Approval for PLN2004-00222 Replacement of an Outside Play Structure Carl's Junior Restaurant, 37000 Fremont Boulevard Conditional Use Permit Amendment (U-83-14)**

#### **FINDINGS:**

**The following findings below are made on the basis of information contained in the staff report, and the testimony at the public hearing, and incorporated hereby:**

1. The proposed project is consistent with intent of the General Plan. It is consistent because this structure is accessory to a use that is allowed in that General Plan Designation.
2. The site is suitable and adequate for the proposed project. Because there is an existing play area which measures over 960 square feet in area, and the new structure is being located within this existing play area, the site can sufficiently accommodate the new play structure.
3. The project would not have a substantial adverse economic effect on nearby uses. This site is located next to the City Centerville Unified Site. The Unified site currently has no active commercial uses onsite. In addition, the nearest like use (fast food) is about a block away. The fast food restaurants in proximity do not maintain a play structure. This would be the only play structure in this general area.
4. The project would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large. The project would not be detrimental because the applicant's goal is to provide this play structure for the benefit of patrons' children. Giving them a secure place to exercise would provide recreational enjoyment for the children and peace of mind for patrons. The play structure is not located near any residents.
5. The proposed project would not have a substantial adverse effect on traffic and pedestrian circulation, the planned capacity of the street, pedestrian way system or other public facilities or services. The new play structure will be located within an existing play area and will replace an existing play structure. This area is about 67 feet from Fremont Boulevard, the nearest public right-of-way. This replacement will not increase or change the traffic or pedestrian flow on the site.

#### **CONDITIONS:**

1. The Carl's Junior Play Structure shall conform to Exhibit "A" (Site Plan, and Elevations), and all other conditions of approval set forth herein.
2. The applicant must submit plans to the Development Organization for review and approval of the play structure. The applicant shall recognize and must agree to any modifications that may be necessary for the final approval of the structure.
3. The plans submitted to the D.O. will be subject to the review and approval by the Planning, Building, Landscape, and Fire Departments.
4. The applicant must address the London Plane Trees that have been incorrectly pruned. The applicant is given two options: (1) Retain the existing trees and submit a program for restructuring the trees to the City during Development Organization review, or (2) Replace the trees with new 24" Box Trees. In order to accomplish option 2, the applicant must show evidence (i.e. a site plan illustrating tree locations, species and canopy coverage) of choice to staff for approval. Replacement of trees must take place prior to final inspection.

5. The applicant shall comply with Table 10-A of the current California Building Code (CBC) and provide and additional means of egress for the play area bringing the total up to a minimum of two. Per CBC Section 1007.2.5, if this additional egress is provided with a latch or lock it must be equipped with panic hardware.
6. The applicant must recycle any debris generated at the site as a result of the existing play structure's removal.
7. Because of its outside location, the applicant must immediately replace any section of the play structure which becomes damaged as a result of natural or unnatural causes.
8. The hours of operation must be between the hours of 7:00 am and 10:00pm.
9. The outside play area may be illuminated, however in no case shall the lights used to illuminate the play area shine light or produce glare directly on to an adjacent property. Lighting fixtures shall be focused onto the project site and shielded away from adjacent roadways and residences. If proposed, the design and details will be subject to the review and approval of staff during the Development Organization review process.